

**93RD GENERAL ASSEMBLY****State of Illinois****2003 and 2004**

Introduced 2/4/2004, by M. Maggie Crotty

**SYNOPSIS AS INTRODUCED:**

305 ILCS 5/10-8.1	
305 ILCS 5/10-10	from Ch. 23, par. 10-10
305 ILCS 5/10-11	from Ch. 23, par. 10-11
750 ILCS 5/505	from Ch. 40, par. 505
750 ILCS 16/20	
750 ILCS 28/32 new	
750 ILCS 45/13.1	
750 ILCS 45/14	from Ch. 40, par. 2514

Amends the Illinois Public Aid Code, the Illinois Marriage and Dissolution of Marriage Act, the Non-Support Punishment Act, the Income Withholding for Support Act, and the Illinois Parentage Act of 1984. Provides that if there is an unpaid arrearage or delinquency equal to at least one month's support obligation on the termination date stated in the order for support or, if there is no termination date stated in the order, on the date the child attains the age of majority or is otherwise emancipated, then the periodic amount required to be paid for current support of that child immediately prior to that date shall automatically continue to be an obligation, not as current support but as periodic payment toward satisfaction of the unpaid arrearage or delinquency. Provides that the periodic payment shall be in addition to any periodic payment previously required for satisfaction of the arrearage or delinquency. Provides that each order for support entered or modified on or after the effective date of this amendatory Act must contain a statement notifying the parties of these requirements. Makes other changes. Effective July 1, 2004.

LRB093 16882 DRJ 42539 b

1 AN ACT concerning child support.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Public Aid Code is amended by  
5 changing Sections 10-8.1, 10-10, and 10-11 as follows:

6 (305 ILCS 5/10-8.1)

7 Sec. 10-8.1. Temporary order for child support.  
8 Notwithstanding any other law to the contrary, pending the  
9 outcome of an administrative determination of parentage, the  
10 Illinois Department shall issue a temporary order for child  
11 support, upon motion by a party and a showing of clear and  
12 convincing evidence of paternity. In determining the amount of  
13 the temporary child support award, the Illinois Department  
14 shall use the guidelines and standards set forth in subsection  
15 (a) of Section 505 and in Section 505.2 of the Illinois  
16 Marriage and Dissolution of Marriage Act.

17 Any new or existing support order entered by the Illinois  
18 Department under this Section shall be deemed to be a series of  
19 judgments against the person obligated to pay support  
20 thereunder, each such judgment to be in the amount of each  
21 payment or installment of support and each judgment to be  
22 deemed entered as of the date the corresponding payment or  
23 installment becomes due under the terms of the support order.  
24 Each such judgment shall have the full force, effect, and  
25 attributes of any other judgment of this State, including the  
26 ability to be enforced. Any such judgment is subject to  
27 modification or termination only in accordance with Section 510  
28 of the Illinois Marriage and Dissolution of Marriage Act. A  
29 lien arises by operation of law against the real and personal  
30 property of the noncustodial parent for each installment of  
31 overdue support owed by the noncustodial parent.

32 All orders for support entered or modified in a case in

1 which a party is receiving child support enforcement services  
2 under this Article X shall include a provision requiring the  
3 non-custodial parent to notify the Illinois Department, within  
4 7 days, (i) of the name, address, and telephone number of any  
5 new employer of the non-custodial parent, (ii) whether the  
6 non-custodial parent has access to health insurance coverage  
7 through the employer or other group coverage, and, if so, the  
8 policy name and number and the names of persons covered under  
9 the policy, and (iii) of any new residential or mailing address  
10 or telephone number of the non-custodial parent.

11 In any subsequent action to enforce a support order, upon  
12 sufficient showing that diligent effort has been made to  
13 ascertain the location of the non-custodial parent, service of  
14 process or provision of notice necessary in that action may be  
15 made at the last known address of the non-custodial parent, in  
16 any manner expressly provided by the Code of Civil Procedure or  
17 this Act, which service shall be sufficient for purposes of due  
18 process.

19 An order for support shall include a date on which the  
20 current support obligation terminates. The termination date  
21 shall be no earlier than the date on which the child covered by  
22 the order will attain the age of 18. However, if the child will  
23 not graduate from high school until after attaining the age of  
24 18, then the termination date shall be no earlier than the  
25 earlier of the date on which the child's high school graduation  
26 will occur or the date on which the child will attain the age  
27 of 19. The order for support shall state that the termination  
28 date does not apply to any arrearage that may remain unpaid on  
29 that date. Nothing in this paragraph shall be construed to  
30 prevent the Illinois Department from modifying the order or  
31 terminating the order in the event the child is otherwise  
32 emancipated.

33 If there is an unpaid arrearage or delinquency (as those  
34 terms are defined in the Income Withholding for Support Act)  
35 equal to at least one month's support obligation on the  
36 termination date stated in the order for support or, if there

1 is no termination date stated in the order, on the date the  
2 child attains the age of majority or is otherwise emancipated,  
3 then the periodic amount required to be paid for current  
4 support of that child immediately prior to that date shall  
5 automatically continue to be an obligation, not as current  
6 support but as periodic payment toward satisfaction of the  
7 unpaid arrearage or delinquency. That periodic payment shall be  
8 in addition to any periodic payment previously required for  
9 satisfaction of the arrearage or delinquency. The total  
10 periodic amount to be paid toward satisfaction of the arrearage  
11 or delinquency may be enforced and collected by any method  
12 provided by law for the enforcement and collection of child  
13 support, including but not limited to income withholding under  
14 the Income Withholding for Support Act. Each order for support  
15 entered or modified on or after the effective date of this  
16 amendatory Act of the 93rd General Assembly must contain a  
17 statement notifying the parties of the requirements of this  
18 paragraph. Failure to include the statement in the order for  
19 support does not affect the validity of the order or the  
20 operation of the provisions of this paragraph with regard to  
21 the order. This paragraph shall not be construed to prevent or  
22 affect the establishment or modification of an order for the  
23 support of a minor child or the establishment or modification  
24 of an order for the support of a non-minor child or educational  
25 expenses under Section 513 of the Illinois Marriage and  
26 Dissolution of Marriage Act.

27 (Source: P.A. 92-590, eff. 7-1-02; 92-876, eff. 6-1-03; revised  
28 9-27-03.)

29 (305 ILCS 5/10-10) (from Ch. 23, par. 10-10)

30 Sec. 10-10. Court enforcement; applicability also to  
31 persons who are not applicants or recipients. Except where the  
32 Illinois Department, by agreement, acts for the local  
33 governmental unit, as provided in Section 10-3.1, local  
34 governmental units shall refer to the State's Attorney or to  
35 the proper legal representative of the governmental unit, for

1 judicial enforcement as herein provided, instances of  
2 non-support or insufficient support when the dependents are  
3 applicants or recipients under Article VI. The Child and Spouse  
4 Support Unit established by Section 10-3.1 may institute in  
5 behalf of the Illinois Department any actions under this  
6 Section for judicial enforcement of the support liability when  
7 the dependents are (a) applicants or recipients under Articles  
8 III, IV, V or VII; (b) applicants or recipients in a local  
9 governmental unit when the Illinois Department, by agreement,  
10 acts for the unit; or (c) non-applicants or non-recipients who  
11 are receiving child support enforcement services under this  
12 Article X, as provided in Section 10-1. Where the Child and  
13 Spouse Support Unit has exercised its option and discretion not  
14 to apply the provisions of Sections 10-3 through 10-8, the  
15 failure by the Unit to apply such provisions shall not be a bar  
16 to bringing an action under this Section.

17 Action shall be brought in the circuit court to obtain  
18 support, or for the recovery of aid granted during the period  
19 such support was not provided, or both for the obtainment of  
20 support and the recovery of the aid provided. Actions for the  
21 recovery of aid may be taken separately or they may be  
22 consolidated with actions to obtain support. Such actions may  
23 be brought in the name of the person or persons requiring  
24 support, or may be brought in the name of the Illinois  
25 Department or the local governmental unit, as the case  
26 requires, in behalf of such persons.

27 The court may enter such orders for the payment of moneys  
28 for the support of the person as may be just and equitable and  
29 may direct payment thereof for such period or periods of time  
30 as the circumstances require, including support for a period  
31 before the date the order for support is entered. The order may  
32 be entered against any or all of the defendant responsible  
33 relatives and may be based upon the proportionate ability of  
34 each to contribute to the person's support.

35 The Court shall determine the amount of child support  
36 (including child support for a period before the date the order

1 for child support is entered) by using the guidelines and  
2 standards set forth in subsection (a) of Section 505 and in  
3 Section 505.2 of the Illinois Marriage and Dissolution of  
4 Marriage Act. For purposes of determining the amount of child  
5 support to be paid for a period before the date the order for  
6 child support is entered, there is a rebuttable presumption  
7 that the responsible relative's net income for that period was  
8 the same as his or her net income at the time the order is  
9 entered.

10 If (i) the responsible relative was properly served with a  
11 request for discovery of financial information relating to the  
12 responsible relative's ability to provide child support, (ii)  
13 the responsible relative failed to comply with the request,  
14 despite having been ordered to do so by the court, and (iii)  
15 the responsible relative is not present at the hearing to  
16 determine support despite having received proper notice, then  
17 any relevant financial information concerning the responsible  
18 relative's ability to provide child support that was obtained  
19 pursuant to subpoena and proper notice shall be admitted into  
20 evidence without the need to establish any further foundation  
21 for its admission.

22 An order entered under this Section shall include a  
23 provision requiring the obligor to report to the obligee and to  
24 the clerk of court within 10 days each time the obligor obtains  
25 new employment, and each time the obligor's employment is  
26 terminated for any reason. The report shall be in writing and  
27 shall, in the case of new employment, include the name and  
28 address of the new employer. Failure to report new employment  
29 or the termination of current employment, if coupled with  
30 nonpayment of support for a period in excess of 60 days, is  
31 indirect criminal contempt. For any obligor arrested for  
32 failure to report new employment bond shall be set in the  
33 amount of the child support that should have been paid during  
34 the period of unreported employment. An order entered under  
35 this Section shall also include a provision requiring the  
36 obligor and obligee parents to advise each other of a change in

1 residence within 5 days of the change except when the court  
2 finds that the physical, mental, or emotional health of a party  
3 or that of a minor child, or both, would be seriously  
4 endangered by disclosure of the party's address.

5 The Court shall determine the amount of maintenance using  
6 the standards set forth in Section 504 of the Illinois Marriage  
7 and Dissolution of Marriage Act.

8 Any new or existing support order entered by the court  
9 under this Section shall be deemed to be a series of judgments  
10 against the person obligated to pay support thereunder, each  
11 such judgment to be in the amount of each payment or  
12 installment of support and each such judgment to be deemed  
13 entered as of the date the corresponding payment or installment  
14 becomes due under the terms of the support order. Each such  
15 judgment shall have the full force, effect and attributes of  
16 any other judgment of this State, including the ability to be  
17 enforced. Any such judgment is subject to modification or  
18 termination only in accordance with Section 510 of the Illinois  
19 Marriage and Dissolution of Marriage Act. A lien arises by  
20 operation of law against the real and personal property of the  
21 noncustodial parent for each installment of overdue support  
22 owed by the noncustodial parent.

23 When an order is entered for the support of a minor, the  
24 court may provide therein for reasonable visitation of the  
25 minor by the person or persons who provided support pursuant to  
26 the order. Whoever willfully refuses to comply with such  
27 visitation order or willfully interferes with its enforcement  
28 may be declared in contempt of court and punished therefor.

29 Except where the local governmental unit has entered into  
30 an agreement with the Illinois Department for the Child and  
31 Spouse Support Unit to act for it, as provided in Section  
32 10-3.1, support orders entered by the court in cases involving  
33 applicants or recipients under Article VI shall provide that  
34 payments thereunder be made directly to the local governmental  
35 unit. Orders for the support of all other applicants or  
36 recipients shall provide that payments thereunder be made

1 directly to the Illinois Department. In accordance with federal  
2 law and regulations, the Illinois Department may continue to  
3 collect current maintenance payments or child support  
4 payments, or both, after those persons cease to receive public  
5 assistance and until termination of services under Article X.  
6 The Illinois Department shall pay the net amount collected to  
7 those persons after deducting any costs incurred in making the  
8 collection or any collection fee from the amount of any  
9 recovery made. In both cases the order shall permit the local  
10 governmental unit or the Illinois Department, as the case may  
11 be, to direct the responsible relative or relatives to make  
12 support payments directly to the needy person, or to some  
13 person or agency in his behalf, upon removal of the person from  
14 the public aid rolls or upon termination of services under  
15 Article X.

16 If the notice of support due issued pursuant to Section  
17 10-7 directs that support payments be made directly to the  
18 needy person, or to some person or agency in his behalf, and  
19 the recipient is removed from the public aid rolls, court  
20 action may be taken against the responsible relative hereunder  
21 if he fails to furnish support in accordance with the terms of  
22 such notice.

23 Actions may also be brought under this Section in behalf of  
24 any person who is in need of support from responsible  
25 relatives, as defined in Section 2-11 of Article II who is not  
26 an applicant for or recipient of financial aid under this Code.  
27 In such instances, the State's Attorney of the county in which  
28 such person resides shall bring action against the responsible  
29 relatives hereunder. If the Illinois Department, as authorized  
30 by Section 10-1, extends the child support enforcement services  
31 provided by this Article to spouses and dependent children who  
32 are not applicants or recipients under this Code, the Child and  
33 Spouse Support Unit established by Section 10-3.1 shall bring  
34 action against the responsible relatives hereunder and any  
35 support orders entered by the court in such cases shall provide  
36 that payments thereunder be made directly to the Illinois



1 Department.

2 Whenever it is determined in a proceeding to establish or  
3 enforce a child support or maintenance obligation that the  
4 person owing a duty of support is unemployed, the court may  
5 order the person to seek employment and report periodically to  
6 the court with a diary, listing or other memorandum of his or  
7 her efforts in accordance with such order. Additionally, the  
8 court may order the unemployed person to report to the  
9 Department of Employment Security for job search services or to  
10 make application with the local Job Training Partnership Act  
11 provider for participation in job search, training or work  
12 programs and where the duty of support is owed to a child  
13 receiving child support enforcement services under this  
14 Article X, the court may order the unemployed person to report  
15 to the Illinois Department for participation in job search,  
16 training or work programs established under Section 9-6 and  
17 Article IXA of this Code.

18 Whenever it is determined that a person owes past-due  
19 support for a child receiving assistance under this Code, the  
20 court shall order at the request of the Illinois Department:

21 (1) that the person pay the past-due support in  
22 accordance with a plan approved by the court; or

23 (2) if the person owing past-due support is unemployed,  
24 is subject to such a plan, and is not incapacitated, that  
25 the person participate in such job search, training, or  
26 work programs established under Section 9-6 and Article IXA  
27 of this Code as the court deems appropriate.

28 A determination under this Section shall not be  
29 administratively reviewable by the procedures specified in  
30 Sections 10-12, and 10-13 to 10-13.10. Any determination under  
31 these Sections, if made the basis of court action under this  
32 Section, shall not affect the de novo judicial determination  
33 required under this Section.

34 A one-time charge of 20% is imposable upon the amount of  
35 past-due child support owed on July 1, 1988 which has accrued  
36 under a support order entered by the court. The charge shall be

1 imposed in accordance with the provisions of Section 10-21 of  
2 this Code and shall be enforced by the court upon petition.

3 All orders for support, when entered or modified, shall  
4 include a provision requiring the non-custodial parent to  
5 notify the court and, in cases in which a party is receiving  
6 child support enforcement services under this Article X, the  
7 Illinois Department, within 7 days, (i) of the name, address,  
8 and telephone number of any new employer of the non-custodial  
9 parent, (ii) whether the non-custodial parent has access to  
10 health insurance coverage through the employer or other group  
11 coverage and, if so, the policy name and number and the names  
12 of persons covered under the policy, and (iii) of any new  
13 residential or mailing address or telephone number of the  
14 non-custodial parent. In any subsequent action to enforce a  
15 support order, upon a sufficient showing that a diligent effort  
16 has been made to ascertain the location of the non-custodial  
17 parent, service of process or provision of notice necessary in  
18 the case may be made at the last known address of the  
19 non-custodial parent in any manner expressly provided by the  
20 Code of Civil Procedure or this Code, which service shall be  
21 sufficient for purposes of due process.

22 An order for support shall include a date on which the  
23 current support obligation terminates. The termination date  
24 shall be no earlier than the date on which the child covered by  
25 the order will attain the age of 18. However, if the child will  
26 not graduate from high school until after attaining the age of  
27 18, then the termination date shall be no earlier than the  
28 earlier of the date on which the child's high school graduation  
29 will occur or the date on which the child will attain the age  
30 of 19. The order for support shall state that the termination  
31 date does not apply to any arrearage that may remain unpaid on  
32 that date. Nothing in this paragraph shall be construed to  
33 prevent the court from modifying the order or terminating the  
34 order in the event the child is otherwise emancipated.

35 If there is an unpaid arrearage or delinquency (as those  
36 terms are defined in the Income Withholding for Support Act)

1 equal to at least one month's support obligation on the  
2 termination date stated in the order for support or, if there  
3 is no termination date stated in the order, on the date the  
4 child attains the age of majority or is otherwise emancipated,  
5 then the periodic amount required to be paid for current  
6 support of that child immediately prior to that date shall  
7 automatically continue to be an obligation, not as current  
8 support but as periodic payment toward satisfaction of the  
9 unpaid arrearage or delinquency. That periodic payment shall be  
10 in addition to any periodic payment previously required for  
11 satisfaction of the arrearage or delinquency. The total  
12 periodic amount to be paid toward satisfaction of the arrearage  
13 or delinquency may be enforced and collected by any method  
14 provided by law for the enforcement and collection of child  
15 support, including but not limited to income withholding under  
16 the Income Withholding for Support Act. Each order for support  
17 entered or modified on or after the effective date of this  
18 amendatory Act of the 93rd General Assembly must contain a  
19 statement notifying the parties of the requirements of this  
20 paragraph. Failure to include the statement in the order for  
21 support does not affect the validity of the order or the  
22 operation of the provisions of this paragraph with regard to  
23 the order. This paragraph shall not be construed to prevent or  
24 affect the establishment or modification of an order for the  
25 support of a minor child or the establishment or modification  
26 of an order for the support of a non-minor child or educational  
27 expenses under Section 513 of the Illinois Marriage and  
28 Dissolution of Marriage Act.

29       Upon notification in writing or by electronic transmission  
30 from the Illinois Department to the clerk of the court that a  
31 person who is receiving support payments under this Section is  
32 receiving services under the Child Support Enforcement Program  
33 established by Title IV-D of the Social Security Act, any  
34 support payments subsequently received by the clerk of the  
35 court shall be transmitted in accordance with the instructions  
36 of the Illinois Department until the Illinois Department gives

1 notice to the clerk of the court to cease the transmittal.  
2 After providing the notification authorized under this  
3 paragraph, the Illinois Department shall be entitled as a party  
4 to notice of any further proceedings in the case. The clerk of  
5 the court shall file a copy of the Illinois Department's  
6 notification in the court file. The clerk's failure to file a  
7 copy of the notification in the court file shall not, however,  
8 affect the Illinois Department's right to receive notice of  
9 further proceedings.

10 Payments under this Section to the Illinois Department  
11 pursuant to the Child Support Enforcement Program established  
12 by Title IV-D of the Social Security Act shall be paid into the  
13 Child Support Enforcement Trust Fund. All payments under this  
14 Section to the Illinois Department of Human Services shall be  
15 deposited in the DHS Recoveries Trust Fund. Disbursements from  
16 these funds shall be as provided in Sections 12-9.1 and 12-10.2  
17 of this Code. Payments received by a local governmental unit  
18 shall be deposited in that unit's General Assistance Fund.

19 To the extent the provisions of this Section are  
20 inconsistent with the requirements pertaining to the State  
21 Disbursement Unit under Sections 10-10.4 and 10-26 of this  
22 Code, the requirements pertaining to the State Disbursement  
23 Unit shall apply.

24 (Source: P.A. 92-16, eff. 6-28-01; 92-590, eff. 7-1-02; 92-876,  
25 eff. 6-1-03; revised 9-27-03.)

26 (305 ILCS 5/10-11) (from Ch. 23, par. 10-11)

27 Sec. 10-11. Administrative Orders. In lieu of actions for  
28 court enforcement of support under Section 10-10, the Child and  
29 Spouse Support Unit of the Illinois Department, in accordance  
30 with the rules of the Illinois Department, may issue an  
31 administrative order requiring the responsible relative to  
32 comply with the terms of the determination and notice of  
33 support due, determined and issued under Sections 10-6 and  
34 10-7. The Unit may also enter an administrative order under  
35 subsection (b) of Section 10-7. The administrative order shall

1 be served upon the responsible relative by United States  
2 registered or certified mail. In cases in which the responsible  
3 relative appeared at the office of the Child and Spouse Support  
4 Unit in response to the notice of support obligation issued  
5 under Section 10-4, however, or in cases of default in which  
6 the notice was served on the responsible relative by certified  
7 mail, return receipt requested, or by any method provided by  
8 law for service of summons, the administrative determination of  
9 paternity or administrative support order may be sent to the  
10 responsible relative by ordinary mail addressed to the  
11 responsible relative's last known address.

12 If a responsible relative or a person receiving child  
13 support enforcement services under this Article fails to  
14 petition the Illinois Department for release from or  
15 modification of the administrative order, as provided in  
16 Section 10-12 or Section 10-12.1, the order shall become final  
17 and there shall be no further administrative or judicial  
18 remedy. Likewise a decision by the Illinois Department as a  
19 result of an administrative hearing, as provided in Sections  
20 10-13 to 10-13.10, shall become final and enforceable if not  
21 judicially reviewed under the Administrative Review Law, as  
22 provided in Section 10-14.

23 Any new or existing support order entered by the Illinois  
24 Department under this Section shall be deemed to be a series of  
25 judgments against the person obligated to pay support  
26 thereunder, each such judgment to be in the amount of each  
27 payment or installment of support and each such judgment to be  
28 deemed entered as of the date the corresponding payment or  
29 installment becomes due under the terms of the support order.  
30 Each such judgment shall have the full force, effect and  
31 attributes of any other judgment of this State, including the  
32 ability to be enforced. Any such judgment is subject to  
33 modification or termination only in accordance with Section 510  
34 of the Illinois Marriage and Dissolution of Marriage Act. A  
35 lien arises by operation of law against the real and personal  
36 property of the noncustodial parent for each installment of

1 overdue support owed by the noncustodial parent.

2 An order for support shall include a date on which the  
3 current support obligation terminates. The termination date  
4 shall be no earlier than the date on which the child covered by  
5 the order will attain the age of majority or is otherwise  
6 emancipated. The order for support shall state that the  
7 termination date does not apply to any arrearage that may  
8 remain unpaid on that date. Nothing in this paragraph shall be  
9 construed to prevent modification of the order by the  
10 Department.

11 If there is an unpaid arrearage or delinquency (as those  
12 terms are defined in the Income Withholding for Support Act)  
13 equal to at least one month's support obligation on the  
14 termination date stated in the order for support or, if there  
15 is no termination date stated in the order, on the date the  
16 child attains the age of majority or is otherwise emancipated,  
17 then the periodic amount required to be paid for current  
18 support of that child immediately prior to that date shall  
19 automatically continue to be an obligation, not as current  
20 support but as periodic payment toward satisfaction of the  
21 unpaid arrearage or delinquency. That periodic payment shall be  
22 in addition to any periodic payment previously required for  
23 satisfaction of the arrearage or delinquency. The total  
24 periodic amount to be paid toward satisfaction of the arrearage  
25 or delinquency may be enforced and collected by any method  
26 provided by law for the enforcement and collection of child  
27 support, including but not limited to income withholding under  
28 the Income Withholding for Support Act. Each order for support  
29 entered or modified on or after the effective date of this  
30 amendatory Act of the 93rd General Assembly must contain a  
31 statement notifying the parties of the requirements of this  
32 paragraph. Failure to include the statement in the order for  
33 support does not affect the validity of the order or the  
34 operation of the provisions of this paragraph with regard to  
35 the order. This paragraph shall not be construed to prevent or  
36 affect the establishment or modification of an order for the

1 support of a minor child or the establishment or modification  
2 of an order for the support of a non-minor child or educational  
3 expenses under Section 513 of the Illinois Marriage and  
4 Dissolution of Marriage Act.

5 ~~An order entered under this Section shall include a~~  
6 ~~provision requiring the obligor to report to the obligee and to~~  
7 ~~the clerk of court within 10 days each time the obligor obtains~~  
8 ~~new employment, and each time the obligor's employment is~~  
9 ~~terminated for any reason. The report shall be in writing and~~  
10 ~~shall, in the case of new employment, include the name and~~  
11 ~~address of the new employer. Failure to report new employment~~  
12 ~~or the termination of current employment, if coupled with~~  
13 ~~nonpayment of support for a period in excess of 60 days, is~~  
14 ~~indirect criminal contempt. For any obligor arrested for~~  
15 ~~failure to report new employment bond shall be set in the~~  
16 ~~amount of the child support that should have been paid during~~  
17 ~~the period of unreported employment. An order entered under~~  
18 ~~this Section shall also include a provision requiring the~~  
19 ~~obligor and obligee parents to advise each other of a change in~~  
20 ~~residence within 5 days of the change except when the court~~  
21 ~~finds that the physical, mental, or emotional health of a party~~  
22 ~~or that of a minor child, or both, would be seriously~~  
23 ~~endangered by disclosure of the party's address.~~

24 ~~A one time charge of 20% is imposable upon the amount of~~  
25 ~~past due child support owed on July 1, 1988, which has accrued~~  
26 ~~under a support order entered by the Illinois Department under~~  
27 ~~this Section. The charge shall be imposed in accordance with~~  
28 ~~the provisions of Section 10-21 and shall be enforced by the~~  
29 ~~court in a suit filed under Section 10-15.~~

30 An order for support shall include a date on which the  
31 support obligation terminates. The termination date shall be no  
32 earlier than the date on which the child covered by the order  
33 will attain the age of 18. However, if the child will not  
34 graduate from high school until after attaining the age of 18,  
35 then the termination date shall be no earlier than the earlier  
36 of the date that the child's graduation will occur or the date

1 on which the child will attain the age of 19. The order for  
 2 support shall state that the termination date does not apply to  
 3 any arrearage that may remain unpaid on that date. Nothing in  
 4 this paragraph shall be construed to prevent the Illinois  
 5 Department from modifying the order or terminating the order in  
 6 the event the child is otherwise emancipated.

7 (Source: P.A. 92-590, eff. 7-1-02; 92-876, eff. 6-1-03; revised  
 8 9-27-03.)

9 Section 10. The Illinois Marriage and Dissolution of  
 10 Marriage Act is amended by changing Section 505 as follows:

11 (750 ILCS 5/505) (from Ch. 40, par. 505)

12 Sec. 505. Child support; contempt; penalties.

13 (a) In a proceeding for dissolution of marriage, legal  
 14 separation, declaration of invalidity of marriage, a  
 15 proceeding for child support following dissolution of the  
 16 marriage by a court which lacked personal jurisdiction over the  
 17 absent spouse, a proceeding for modification of a previous  
 18 order for child support under Section 510 of this Act, or any  
 19 proceeding authorized under Section 501 or 601 of this Act, the  
 20 court may order either or both parents owing a duty of support  
 21 to a child of the marriage to pay an amount reasonable and  
 22 necessary for his support, without regard to marital  
 23 misconduct. The duty of support owed to a child includes the  
 24 obligation to provide for the reasonable and necessary  
 25 physical, mental and emotional health needs of the child. For  
 26 purposes of this Section, the term "child" shall include any  
 27 child under age 18 and any child under age 19 who is still  
 28 attending high school.

29 (1) The Court shall determine the minimum amount of  
 30 support by using the following guidelines:

31	Number of Children	Percent of Supporting Party's
32		Net Income
33	1	20%
34	2	28%



1	3	32%
2	4	40%
3	5	45%
4	6 or more	50%

5 (2) The above guidelines shall be applied in each case  
6 unless the court makes a finding that application of the  
7 guidelines would be inappropriate, after considering the  
8 best interests of the child in light of evidence including  
9 but not limited to one or more of the following relevant  
10 factors:

11 (a) the financial resources and needs of the child;

12 (b) the financial resources and needs of the  
13 custodial parent;

14 (c) the standard of living the child would have  
15 enjoyed had the marriage not been dissolved;

16 (d) the physical and emotional condition of the  
17 child, and his educational needs; and

18 (e) the financial resources and needs of the  
19 non-custodial parent.

20 If the court deviates from the guidelines, the court's  
21 finding shall state the amount of support that would have  
22 been required under the guidelines, if determinable. The  
23 court shall include the reason or reasons for the variance  
24 from the guidelines.

25 (3) "Net income" is defined as the total of all income  
26 from all sources, minus the following deductions:

27 (a) Federal income tax (properly calculated  
28 withholding or estimated payments);

29 (b) State income tax (properly calculated  
30 withholding or estimated payments);

31 (c) Social Security (FICA payments);

32 (d) Mandatory retirement contributions required by  
33 law or as a condition of employment;

34 (e) Union dues;

35 (f) Dependent and individual  
36 health/hospitalization insurance premiums;

1 (g) Prior obligations of support or maintenance  
2 actually paid pursuant to a court order;

3 (h) Expenditures for repayment of debts that  
4 represent reasonable and necessary expenses for the  
5 production of income, medical expenditures necessary  
6 to preserve life or health, reasonable expenditures  
7 for the benefit of the child and the other parent,  
8 exclusive of gifts. The court shall reduce net income  
9 in determining the minimum amount of support to be  
10 ordered only for the period that such payments are due  
11 and shall enter an order containing provisions for its  
12 self-executing modification upon termination of such  
13 payment period.

14 (4) In cases where the court order provides for  
15 health/hospitalization insurance coverage pursuant to  
16 Section 505.2 of this Act, the premiums for that insurance,  
17 or that portion of the premiums for which the supporting  
18 party is responsible in the case of insurance provided  
19 through an employer's health insurance plan where the  
20 employer pays a portion of the premiums, shall be  
21 subtracted from net income in determining the minimum  
22 amount of support to be ordered.

23 (4.5) In a proceeding for child support following  
24 dissolution of the marriage by a court that lacked personal  
25 jurisdiction over the absent spouse, and in which the court  
26 is requiring payment of support for the period before the  
27 date an order for current support is entered, there is a  
28 rebuttable presumption that the supporting party's net  
29 income for the prior period was the same as his or her net  
30 income at the time the order for current support is  
31 entered.

32 (5) If the net income cannot be determined because of  
33 default or any other reason, the court shall order support  
34 in an amount considered reasonable in the particular case.  
35 The final order in all cases shall state the support level  
36 in dollar amounts. However, if the court finds that the

1 child support amount cannot be expressed exclusively as a  
2 dollar amount because all or a portion of the payor's net  
3 income is uncertain as to source, time of payment, or  
4 amount, the court may order a percentage amount of support  
5 in addition to a specific dollar amount and enter such  
6 other orders as may be necessary to determine and enforce,  
7 on a timely basis, the applicable support ordered.

8 (6) If (i) the non-custodial parent was properly served  
9 with a request for discovery of financial information  
10 relating to the non-custodial parent's ability to provide  
11 child support, (ii) the non-custodial parent failed to  
12 comply with the request, despite having been ordered to do  
13 so by the court, and (iii) the non-custodial parent is not  
14 present at the hearing to determine support despite having  
15 received proper notice, then any relevant financial  
16 information concerning the non-custodial parent's ability  
17 to provide child support that was obtained pursuant to  
18 subpoena and proper notice shall be admitted into evidence  
19 without the need to establish any further foundation for  
20 its admission.

21 (a-5) In an action to enforce an order for support based on  
22 the respondent's failure to make support payments as required  
23 by the order, notice of proceedings to hold the respondent in  
24 contempt for that failure may be served on the respondent by  
25 personal service or by regular mail addressed to the  
26 respondent's last known address. The respondent's last known  
27 address may be determined from records of the clerk of the  
28 court, from the Federal Case Registry of Child Support Orders,  
29 or by any other reasonable means.

30 (b) Failure of either parent to comply with an order to pay  
31 support shall be punishable as in other cases of contempt. In  
32 addition to other penalties provided by law the Court may,  
33 after finding the parent guilty of contempt, order that the  
34 parent be:

35 (1) placed on probation with such conditions of  
36 probation as the Court deems advisable;

1           (2) sentenced to periodic imprisonment for a period not  
2           to exceed 6 months; provided, however, that the Court may  
3           permit the parent to be released for periods of time during  
4           the day or night to:

5                     (A) work; or

6                     (B) conduct a business or other self-employed  
7           occupation.

8           The Court may further order any part or all of the earnings  
9           of a parent during a sentence of periodic imprisonment paid to  
10          the Clerk of the Circuit Court or to the parent having custody  
11          or to the guardian having custody of the children of the  
12          sentenced parent for the support of said children until further  
13          order of the Court.

14          If there is a unity of interest and ownership sufficient to  
15          render no financial separation between a non-custodial parent  
16          and another person or persons or business entity, the court may  
17          pierce the ownership veil of the person, persons, or business  
18          entity to discover assets of the non-custodial parent held in  
19          the name of that person, those persons, or that business  
20          entity. The following circumstances are sufficient to  
21          authorize a court to order discovery of the assets of a person,  
22          persons, or business entity and to compel the application of  
23          any discovered assets toward payment on the judgment for  
24          support:

25                    (1) the non-custodial parent and the person, persons,  
26                    or business entity maintain records together.

27                    (2) the non-custodial parent and the person, persons,  
28                    or business entity fail to maintain an arms length  
29                    relationship between themselves with regard to any assets.

30                    (3) the non-custodial parent transfers assets to the  
31                    person, persons, or business entity with the intent to  
32                    perpetrate a fraud on the custodial parent.

33          With respect to assets which are real property, no order  
34          entered under this paragraph shall affect the rights of bona  
35          fide purchasers, mortgagees, judgment creditors, or other lien  
36          holders who acquire their interests in the property prior to

1 the time a notice of lis pendens pursuant to the Code of Civil  
2 Procedure or a copy of the order is placed of record in the  
3 office of the recorder of deeds for the county in which the  
4 real property is located.

5 The court may also order in cases where the parent is 90  
6 days or more delinquent in payment of support or has been  
7 adjudicated in arrears in an amount equal to 90 days obligation  
8 or more, that the parent's Illinois driving privileges be  
9 suspended until the court determines that the parent is in  
10 compliance with the order of support. The court may also order  
11 that the parent be issued a family financial responsibility  
12 driving permit that would allow limited driving privileges for  
13 employment and medical purposes in accordance with Section  
14 7-702.1 of the Illinois Vehicle Code. The clerk of the circuit  
15 court shall certify the order suspending the driving privileges  
16 of the parent or granting the issuance of a family financial  
17 responsibility driving permit to the Secretary of State on  
18 forms prescribed by the Secretary. Upon receipt of the  
19 authenticated documents, the Secretary of State shall suspend  
20 the parent's driving privileges until further order of the  
21 court and shall, if ordered by the court, subject to the  
22 provisions of Section 7-702.1 of the Illinois Vehicle Code,  
23 issue a family financial responsibility driving permit to the  
24 parent.

25 In addition to the penalties or punishment that may be  
26 imposed under this Section, any person whose conduct  
27 constitutes a violation of Section 15 of the Non-Support  
28 Punishment Act may be prosecuted under that Act, and a person  
29 convicted under that Act may be sentenced in accordance with  
30 that Act. The sentence may include but need not be limited to a  
31 requirement that the person perform community service under  
32 Section 50 of that Act or participate in a work alternative  
33 program under Section 50 of that Act. A person may not be  
34 required to participate in a work alternative program under  
35 Section 50 of that Act if the person is currently participating  
36 in a work program pursuant to Section 505.1 of this Act.

1           A support obligation, or any portion of a support  
2 obligation, which becomes due and remains unpaid for 30 days or  
3 more shall accrue simple interest at the rate of 9% per annum.  
4 An order for support entered or modified on or after January 1,  
5 2002 shall contain a statement that a support obligation  
6 required under the order, or any portion of a support  
7 obligation required under the order, that becomes due and  
8 remains unpaid for 30 days or more shall accrue simple interest  
9 at the rate of 9% per annum. Failure to include the statement  
10 in the order for support does not affect the validity of the  
11 order or the accrual of interest as provided in this Section.

12           (c) A one-time charge of 20% is imposable upon the amount  
13 of past-due child support owed on July 1, 1988 which has  
14 accrued under a support order entered by the court. The charge  
15 shall be imposed in accordance with the provisions of Section  
16 10-21 of the Illinois Public Aid Code and shall be enforced by  
17 the court upon petition.

18           (d) Any new or existing support order entered by the court  
19 under this Section shall be deemed to be a series of judgments  
20 against the person obligated to pay support thereunder, each  
21 such judgment to be in the amount of each payment or  
22 installment of support and each such judgment to be deemed  
23 entered as of the date the corresponding payment or installment  
24 becomes due under the terms of the support order. Each such  
25 judgment shall have the full force, effect and attributes of  
26 any other judgment of this State, including the ability to be  
27 enforced. A lien arises by operation of law against the real  
28 and personal property of the noncustodial parent for each  
29 installment of overdue support owed by the noncustodial parent.

30           (e) When child support is to be paid through the clerk of  
31 the court in a county of 1,000,000 inhabitants or less, the  
32 order shall direct the obligor to pay to the clerk, in addition  
33 to the child support payments, all fees imposed by the county  
34 board under paragraph (3) of subsection (u) of Section 27.1 of  
35 the Clerks of Courts Act. Unless paid in cash or pursuant to an  
36 order for withholding, the payment of the fee shall be by a

1 separate instrument from the support payment and shall be made  
2 to the order of the Clerk.

3 (f) All orders for support, when entered or modified, shall  
4 include a provision requiring the obligor to notify the court  
5 and, in cases in which a party is receiving child and spouse  
6 services under Article X of the Illinois Public Aid Code, the  
7 Illinois Department of Public Aid, within 7 days, (i) of the  
8 name and address of any new employer of the obligor, (ii)  
9 whether the obligor has access to health insurance coverage  
10 through the employer or other group coverage and, if so, the  
11 policy name and number and the names of persons covered under  
12 the policy, and (iii) of any new residential or mailing address  
13 or telephone number of the non-custodial parent. In any  
14 subsequent action to enforce a support order, upon a sufficient  
15 showing that a diligent effort has been made to ascertain the  
16 location of the non-custodial parent, service of process or  
17 provision of notice necessary in the case may be made at the  
18 last known address of the non-custodial parent in any manner  
19 expressly provided by the Code of Civil Procedure or this Act,  
20 which service shall be sufficient for purposes of due process.

21 (g) An order for support shall include a date on which the  
22 current support obligation terminates. The termination date  
23 shall be no earlier than the date on which the child covered by  
24 the order will attain the age of 18. However, if the child will  
25 not graduate from high school until after attaining the age of  
26 18, then the termination date shall be no earlier than the  
27 earlier of the date on which the child's high school graduation  
28 will occur or the date on which the child will attain the age  
29 of 19. The order for support shall state that the termination  
30 date does not apply to any arrearage that may remain unpaid on  
31 that date. Nothing in this subsection shall be construed to  
32 prevent the court from modifying the order or terminating the  
33 order in the event the child is otherwise emancipated.

34 (g-5) If there is an unpaid arrearage or delinquency (as  
35 those terms are defined in the Income Withholding for Support  
36 Act) equal to at least one month's support obligation on the

1 termination date stated in the order for support or, if there  
2 is no termination date stated in the order, on the date the  
3 child attains the age of majority or is otherwise emancipated,  
4 the periodic amount required to be paid for current support of  
5 that child immediately prior to that date shall automatically  
6 continue to be an obligation, not as current support but as  
7 periodic payment toward satisfaction of the unpaid arrearage or  
8 delinquency. That periodic payment shall be in addition to any  
9 periodic payment previously required for satisfaction of the  
10 arrearage or delinquency. The total periodic amount to be paid  
11 toward satisfaction of the arrearage or delinquency may be  
12 enforced and collected by any method provided by law for  
13 enforcement and collection of child support, including but not  
14 limited to income withholding under the Income Withholding for  
15 Support Act. Each order for support entered or modified on or  
16 after the effective date of this amendatory Act of the 93rd  
17 General Assembly must contain a statement notifying the parties  
18 of the requirements of this subsection. Failure to include the  
19 statement in the order for support does not affect the validity  
20 of the order or the operation of the provisions of this  
21 subsection with regard to the order. This subsection shall not  
22 be construed to prevent or affect the establishment or  
23 modification of an order for support of a minor child or the  
24 establishment or modification of an order for support of a  
25 non-minor child or educational expenses under Section 513 of  
26 this Act.

27 (h) An order entered under this Section shall include a  
28 provision requiring the obligor to report to the obligee and to  
29 the clerk of court within 10 days each time the obligor obtains  
30 new employment, and each time the obligor's employment is  
31 terminated for any reason. The report shall be in writing and  
32 shall, in the case of new employment, include the name and  
33 address of the new employer. Failure to report new employment  
34 or the termination of current employment, if coupled with  
35 nonpayment of support for a period in excess of 60 days, is  
36 indirect criminal contempt. For any obligor arrested for



1 failure to report new employment bond shall be set in the  
2 amount of the child support that should have been paid during  
3 the period of unreported employment. An order entered under  
4 this Section shall also include a provision requiring the  
5 obligor and obligee parents to advise each other of a change in  
6 residence within 5 days of the change except when the court  
7 finds that the physical, mental, or emotional health of a party  
8 or that of a child, or both, would be seriously endangered by  
9 disclosure of the party's address.

10 (i) The court does not lose the powers of contempt,  
11 driver's license suspension, or other child support  
12 enforcement mechanisms, including, but not limited to,  
13 criminal prosecution as set forth in this Act, upon the  
14 emancipation of the minor child or children.

15 (Source: P.A. 92-16, eff. 6-28-01; 92-203, eff. 8-1-01; 92-374,  
16 eff. 8-15-01; 92-651, eff. 7-11-02; 92-876, eff. 6-1-03;  
17 93-148, eff. 7-10-03.)

18 Section 15. The Non-Support Punishment Act is amended by  
19 changing Section 20 as follows:

20 (750 ILCS 16/20)

21 Sec. 20. Entry of order for support; income withholding.

22 (a) In a case in which no court or administrative order for  
23 support is in effect against the defendant:

24 (1) at any time before the trial, upon motion of the  
25 State's Attorney, or of the Attorney General if the action  
26 has been instituted by his office, and upon notice to the  
27 defendant, or at the time of arraignment or as a condition  
28 of postponement of arraignment, the court may enter such  
29 temporary order for support as may seem just, providing for  
30 the support or maintenance of the spouse or child or  
31 children of the defendant, or both, pendente lite; or

32 (2) before trial with the consent of the defendant, or  
33 at the trial on entry of a plea of guilty, or after  
34 conviction, instead of imposing the penalty provided in

1           this Act, or in addition thereto, the court may enter an  
2           order for support, subject to modification by the court  
3           from time to time as circumstances may require, directing  
4           the defendant to pay a certain sum for maintenance of the  
5           spouse, or for support of the child or children, or both.

6           (b) The court shall determine the amount of child support  
7           by using the guidelines and standards set forth in subsection  
8           (a) of Section 505 and in Section 505.2 of the Illinois  
9           Marriage and Dissolution of Marriage Act.

10           If (i) the non-custodial parent was properly served with a  
11           request for discovery of financial information relating to the  
12           non-custodial parent's ability to provide child support, (ii)  
13           the non-custodial parent failed to comply with the request,  
14           despite having been ordered to do so by the court, and (iii)  
15           the non-custodial parent is not present at the hearing to  
16           determine support despite having received proper notice, then  
17           any relevant financial information concerning the  
18           non-custodial parent's ability to provide support that was  
19           obtained pursuant to subpoena and proper notice shall be  
20           admitted into evidence without the need to establish any  
21           further foundation for its admission.

22           (c) The court shall determine the amount of maintenance  
23           using the standards set forth in Section 504 of the Illinois  
24           Marriage and Dissolution of Marriage Act.

25           (d) The court may, for violation of any order under this  
26           Section, punish the offender as for a contempt of court, but no  
27           pendente lite order shall remain in effect longer than 4  
28           months, or after the discharge of any panel of jurors summoned  
29           for service thereafter in such court, whichever is sooner.

30           (e) Any order for support entered by the court under this  
31           Section shall be deemed to be a series of judgments against the  
32           person obligated to pay support under the judgments, each such  
33           judgment to be in the amount of each payment or installment of  
34           support and each judgment to be deemed entered as of the date  
35           the corresponding payment or installment becomes due under the  
36           terms of the support order. Each judgment shall have the full

1 force, effect, and attributes of any other judgment of this  
2 State, including the ability to be enforced. Each judgment is  
3 subject to modification or termination only in accordance with  
4 Section 510 of the Illinois Marriage and Dissolution of  
5 Marriage Act. A lien arises by operation of law against the  
6 real and personal property of the noncustodial parent for each  
7 installment of overdue support owed by the noncustodial parent.

8 (f) An order for support entered under this Section shall  
9 include a provision requiring the obligor to report to the  
10 obligee and to the clerk of the court within 10 days each time  
11 the obligor obtains new employment, and each time the obligor's  
12 employment is terminated for any reason. The report shall be in  
13 writing and shall, in the case of new employment, include the  
14 name and address of the new employer.

15 Failure to report new employment or the termination of  
16 current employment, if coupled with nonpayment of support for a  
17 period in excess of 60 days, is indirect criminal contempt. For  
18 any obligor arrested for failure to report new employment, bond  
19 shall be set in the amount of the child support that should  
20 have been paid during the period of unreported employment.

21 An order for support entered under this Section shall also  
22 include a provision requiring the obligor and obligee parents  
23 to advise each other of a change in residence within 5 days of  
24 the change except when the court finds that the physical,  
25 mental, or emotional health of a party or of a minor child, or  
26 both, would be seriously endangered by disclosure of the  
27 party's address.

28 (g) An order for support entered or modified in a case in  
29 which a party is receiving child support enforcement services  
30 under Article X of the Illinois Public Aid Code shall include a  
31 provision requiring the noncustodial parent to notify the  
32 Illinois Department of Public Aid, within 7 days, of the name  
33 and address of any new employer of the noncustodial parent,  
34 whether the noncustodial parent has access to health insurance  
35 coverage through the employer or other group coverage and, if  
36 so, the policy name and number and the names of persons covered

1 under the policy.

2 (h) In any subsequent action to enforce an order for  
3 support entered under this Act, upon sufficient showing that  
4 diligent effort has been made to ascertain the location of the  
5 noncustodial parent, service of process or provision of notice  
6 necessary in that action may be made at the last known address  
7 of the noncustodial parent, in any manner expressly provided by  
8 the Code of Civil Procedure or in this Act, which service shall  
9 be sufficient for purposes of due process.

10 (i) An order for support shall include a date on which the  
11 current support obligation terminates. The termination date  
12 shall be no earlier than the date on which the child covered by  
13 the order will attain the age of 18. However, if the child will  
14 not graduate from high school until after attaining the age of  
15 18, then the termination date shall be no earlier than the  
16 earlier of the date on which the child's high school graduation  
17 will occur or the date on which the child will attain the age  
18 of 19. The order for support shall state that the termination  
19 date does not apply to any arrearage that may remain unpaid on  
20 that date. Nothing in this subsection shall be construed to  
21 prevent the court from modifying the order or terminating the  
22 order in the event the child is otherwise emancipated.

23 (i-5) If there is an unpaid arrearage or delinquency (as  
24 those terms are defined in the Income Withholding for Support  
25 Act) equal to at least one month's support obligation on the  
26 termination date stated in the order for support or, if there  
27 is no termination date stated in the order, on the date the  
28 child attains the age of majority or is otherwise emancipated,  
29 the periodic amount required to be paid for current support of  
30 that child immediately prior to that date shall automatically  
31 continue to be an obligation, not as current support but as  
32 periodic payment toward satisfaction of the unpaid arrearage or  
33 delinquency. That periodic payment shall be in addition to any  
34 periodic payment previously required for satisfaction of the  
35 arrearage or delinquency. The total periodic amount to be paid  
36 toward satisfaction of the arrearage or delinquency may be

1 enforced and collected by any method provided by law for  
2 enforcement and collection of child support, including but not  
3 limited to income withholding under the Income Withholding for  
4 Support Act. Each order for support entered or modified on or  
5 after the effective date of this amendatory Act of the 93rd  
6 General Assembly must contain a statement notifying the parties  
7 of the requirements of this subsection. Failure to include the  
8 statement in the order for support does not affect the validity  
9 of the order or the operation of the provisions of this  
10 subsection with regard to the order. This subsection shall not  
11 be construed to prevent or affect the establishment or  
12 modification of an order for support of a minor child or the  
13 establishment or modification of an order for support of a  
14 non-minor child or educational expenses under Section 513 of  
15 the Illinois Marriage and Dissolution of Marriage Act.

16 (j) A support obligation, or any portion of a support  
17 obligation, which becomes due and remains unpaid for 30 days or  
18 more shall accrue simple interest at the rate of 9% per annum.  
19 An order for support entered or modified on or after January 1,  
20 2002 shall contain a statement that a support obligation  
21 required under the order, or any portion of a support  
22 obligation required under the order, that becomes due and  
23 remains unpaid for 30 days or more shall accrue simple interest  
24 at the rate of 9% per annum. Failure to include the statement  
25 in the order for support does not affect the validity of the  
26 order or the accrual of interest as provided in this Section.

27 (Source: P.A. 92-374, eff. 8-15-01; 92-590, eff. 7-1-02;  
28 92-876, eff. 6-1-03; revised 9-27-03.)

29 Section 20. The Income Withholding for Support Act is  
30 amended by adding Section 32 as follows:

31 (750 ILCS 28/32 new)

32 Sec. 32. Unpaid arrearage or delinquency after current  
33 support obligation terminates.

34 (a) When current support terminates on the date stated in

1 the order for support, or because the child attains the age of  
2 majority or is otherwise emancipated, and the amount previously  
3 required to be paid for current support of that child  
4 automatically continues as an obligation for periodic payment  
5 toward satisfaction of unpaid arrearage or delinquency as  
6 provided for by law, the obligee or public office may prepare  
7 and serve upon the obligor's payor an income withholding notice  
8 that:

9 (1) contains the information required under subsection  
10 (c) of Section 20; and

11 (2) contains the total amount of the unpaid arrearage  
12 or delinquency as of the date of the notice; and

13 (3) directs the payor to withhold, as a periodic  
14 payment toward satisfaction of the unpaid arrearage or  
15 delinquency, the total of:

16 (A) the periodic amount required to be paid as  
17 current support immediately prior to the date the  
18 current support obligation terminated under the order,  
19 or by the child becoming emancipated by age or  
20 otherwise, and

21 (B) any periodic amount previously required for  
22 satisfaction of the arrearage or delinquency.

23 (b) The income withholding notice and the obligor's copy of  
24 the income withholding notice shall be served as provided in  
25 subsection (g) of Section 20.

26 (c) The obligor may contest withholding commenced under  
27 this Section by filing a petition to contest withholding with  
28 the Clerk of the Circuit Court within 20 days after service of  
29 a copy of the income withholding notice on the obligor. The  
30 grounds for the petition to contest withholding shall be  
31 limited to:

32 (1) a dispute concerning the existence or amount of the  
33 unpaid arrearage or delinquency; or

34 (2) the accuracy of the periodic amount required to be  
35 withheld for payments of the unpaid arrearage or  
36 delinquency under the income withholding notice; or

1           (3) the identity of the obligor.

2           The Clerk of the Circuit Court shall notify the obligor and  
3 the obligee or public office of the time and place of the  
4 hearing on the petition to contest withholding. The court shall  
5 hold the hearing pursuant to the provisions of Section 40.

6           Section 25. The Illinois Parentage Act of 1984 is amended  
7 by changing Sections 13.1 and 14 as follows:

8           (750 ILCS 45/13.1)

9           Sec. 13.1. Temporary order for child support.  
10 Notwithstanding any other law to the contrary, pending the  
11 outcome of a judicial determination of parentage, the court  
12 shall issue a temporary order for child support, upon motion by  
13 a party and a showing of clear and convincing evidence of  
14 paternity. In determining the amount of the temporary child  
15 support award, the court shall use the guidelines and standards  
16 set forth in subsection (a) of Section 505 and in Section 505.2  
17 of the Illinois Marriage and Dissolution of Marriage Act.

18           Any new or existing support order entered by the court  
19 under this Section shall be deemed to be a series of judgments  
20 against the person obligated to pay support thereunder, each  
21 such judgment to be in the amount of each payment or  
22 installment of support and each judgment to be deemed entered  
23 as of the date the corresponding payment or installment becomes  
24 due under the terms of the support order. Each such judgment  
25 shall have the full force, effect, and attributes of any other  
26 judgment of this State, including the ability to be enforced.  
27 Any such judgment is subject to modification or termination  
28 only in accordance with Section 510 of the Illinois Marriage  
29 and Dissolution of Marriage Act. A lien arises by operation of  
30 law against the real and personal property of the noncustodial  
31 parent for each installment of overdue support owed by the  
32 noncustodial parent.

33           All orders for support, when entered or modified, shall  
34 include a provision requiring the non-custodial parent to

1 notify the court, and in cases in which a party is receiving  
2 child support enforcement services under Article X of the  
3 Illinois Public Aid Code, the Illinois Department of Public  
4 Aid, within 7 days, (i) of the name, address, and telephone  
5 number of any new employer of the non-custodial parent, (ii)  
6 whether the non-custodial parent has access to health insurance  
7 coverage through the employer or other group coverage, and, if  
8 so, the policy name and number and the names of persons covered  
9 under the policy, and (iii) of any new residential or mailing  
10 address or telephone number of the non-custodial parent.

11 In any subsequent action to enforce a support order, upon  
12 sufficient showing that diligent effort has been made to  
13 ascertain the location of the non-custodial parent, service of  
14 process or provision of notice necessary in that action may be  
15 made at the last known address of the non-custodial parent, in  
16 any manner expressly provided by the Code of Civil Procedure or  
17 in this Act, which service shall be sufficient for purposes of  
18 due process.

19 An order for support shall include a date on which the  
20 current support obligation terminates. The termination date  
21 shall be no earlier than the date on which the child covered by  
22 the order will attain the age of majority or is otherwise  
23 emancipated. The order for support shall state that the  
24 termination date does not apply to any arrearage that may  
25 remain unpaid on that date. Nothing in this paragraph shall be  
26 construed to prevent the court from modifying the order.

27 If there is an unpaid arrearage or delinquency (as those  
28 terms are defined in the Income Withholding for Support Act)  
29 equal to at least one month's support obligation on the  
30 termination date stated in the order for support or, if there  
31 is no termination date stated in the order, on the date the  
32 child attains the age of majority or is otherwise emancipated,  
33 then the periodic amount required to be paid for current  
34 support of that child immediately prior to that date shall  
35 automatically continue to be an obligation, not as current  
36 support but as periodic payment toward satisfaction of the



1 unpaid arrearage or delinquency. That periodic payment shall be  
2 in addition to any periodic payment previously required for  
3 satisfaction of the arrearage or delinquency. The total  
4 periodic amount to be paid toward satisfaction of the arrearage  
5 or delinquency may be enforced and collected by any method  
6 provided by law for the enforcement and collection of child  
7 support, including but not limited to income withholding under  
8 the Income Withholding for Support Act. Each order for support  
9 entered or modified on or after the effective date of this  
10 amendatory Act of the 93rd General Assembly must contain a  
11 statement notifying the parties of the requirements of this  
12 paragraph. Failure to include the statement in the order for  
13 support does not affect the validity of the order or the  
14 operation of the provisions of this paragraph with regard to  
15 the order. This paragraph shall not be construed to prevent or  
16 affect the establishment or modification of an order for the  
17 support of a minor child or the establishment or modification  
18 of an order for the support of a non-minor child or educational  
19 expenses under Section 513 of the Illinois Marriage and  
20 Dissolution of Marriage Act.

21 (Source: P.A. 92-590, eff. 7-1-02.)

22 (750 ILCS 45/14) (from Ch. 40, par. 2514)

23 Sec. 14. Judgment.

24 (a) (1) The judgment shall contain or explicitly reserve  
25 provisions concerning any duty and amount of child support and  
26 may contain provisions concerning the custody and guardianship  
27 of the child, visitation privileges with the child, the  
28 furnishing of bond or other security for the payment of the  
29 judgment, which the court shall determine in accordance with  
30 the relevant factors set forth in the Illinois Marriage and  
31 Dissolution of Marriage Act and any other applicable law of  
32 Illinois, to guide the court in a finding in the best interests  
33 of the child. In determining custody, joint custody, removal,  
34 or visitation, the court shall apply the relevant standards of  
35 the Illinois Marriage and Dissolution of Marriage Act,

1 including Section 609. Specifically, in determining the amount  
2 of any child support award, the court shall use the guidelines  
3 and standards set forth in subsection (a) of Section 505 and in  
4 Section 505.2 of the Illinois Marriage and Dissolution of  
5 Marriage Act. For purposes of Section 505 of the Illinois  
6 Marriage and Dissolution of Marriage Act, "net income" of the  
7 non-custodial parent shall include any benefits available to  
8 that person under the Illinois Public Aid Code or from other  
9 federal, State or local government-funded programs. The court  
10 shall, in any event and regardless of the amount of the  
11 non-custodial parent's net income, in its judgment order the  
12 non-custodial parent to pay child support to the custodial  
13 parent in a minimum amount of not less than \$10 per month. In  
14 an action brought within 2 years after a child's birth, the  
15 judgment or order may direct either parent to pay the  
16 reasonable expenses incurred by either parent related to the  
17 mother's pregnancy and the delivery of the child. The judgment  
18 or order shall contain the father's social security number,  
19 which the father shall disclose to the court; however, failure  
20 to include the father's social security number on the judgment  
21 or order does not invalidate the judgment or order.

22 (2) If a judgment of parentage contains no explicit award  
23 of custody, the establishment of a support obligation or of  
24 visitation rights in one parent shall be considered a judgment  
25 granting custody to the other parent. If the parentage judgment  
26 contains no such provisions, custody shall be presumed to be  
27 with the mother; however, the presumption shall not apply if  
28 the father has had physical custody for at least 6 months prior  
29 to the date that the mother seeks to enforce custodial rights.

30 (b) The court shall order all child support payments,  
31 determined in accordance with such guidelines, to commence with  
32 the date summons is served. The level of current periodic  
33 support payments shall not be reduced because of payments set  
34 for the period prior to the date of entry of the support order.  
35 The Court may order any child support payments to be made for a  
36 period prior to the commencement of the action. In determining

1 whether and the extent to which the payments shall be made for  
2 any prior period, the court shall consider all relevant facts,  
3 including the factors for determining the amount of support  
4 specified in the Illinois Marriage and Dissolution of Marriage  
5 Act and other equitable factors including but not limited to:

6 (1) The father's prior knowledge of the fact and  
7 circumstances of the child's birth.

8 (2) The father's prior willingness or refusal to help  
9 raise or support the child.

10 (3) The extent to which the mother or the public agency  
11 bringing the action previously informed the father of the  
12 child's needs or attempted to seek or require his help in  
13 raising or supporting the child.

14 (4) The reasons the mother or the public agency did not  
15 file the action earlier.

16 (5) The extent to which the father would be prejudiced  
17 by the delay in bringing the action.

18 For purposes of determining the amount of child support to  
19 be paid for any period before the date the order for current  
20 child support is entered, there is a rebuttable presumption  
21 that the father's net income for the prior period was the same  
22 as his net income at the time the order for current child  
23 support is entered.

24 If (i) the non-custodial parent was properly served with a  
25 request for discovery of financial information relating to the  
26 non-custodial parent's ability to provide child support, (ii)  
27 the non-custodial parent failed to comply with the request,  
28 despite having been ordered to do so by the court, and (iii)  
29 the non-custodial parent is not present at the hearing to  
30 determine support despite having received proper notice, then  
31 any relevant financial information concerning the  
32 non-custodial parent's ability to provide child support that  
33 was obtained pursuant to subpoena and proper notice shall be  
34 admitted into evidence without the need to establish any  
35 further foundation for its admission.

36 (c) Any new or existing support order entered by the court

1 under this Section shall be deemed to be a series of judgments  
2 against the person obligated to pay support thereunder, each  
3 judgment to be in the amount of each payment or installment of  
4 support and each such judgment to be deemed entered as of the  
5 date the corresponding payment or installment becomes due under  
6 the terms of the support order. Each judgment shall have the  
7 full force, effect and attributes of any other judgment of this  
8 State, including the ability to be enforced. A lien arises by  
9 operation of law against the real and personal property of the  
10 noncustodial parent for each installment of overdue support  
11 owed by the noncustodial parent.

12 (d) If the judgment or order of the court is at variance  
13 with the child's birth certificate, the court shall order that  
14 a new birth certificate be issued under the Vital Records Act.

15 (e) On request of the mother and the father, the court  
16 shall order a change in the child's name. After hearing  
17 evidence the court may stay payment of support during the  
18 period of the father's minority or period of disability.

19 (f) If, upon a showing of proper service, the father fails  
20 to appear in court, or otherwise appear as provided by law, the  
21 court may proceed to hear the cause upon testimony of the  
22 mother or other parties taken in open court and shall enter a  
23 judgment by default. The court may reserve any order as to the  
24 amount of child support until the father has received notice,  
25 by regular mail, of a hearing on the matter.

26 (g) A one-time charge of 20% is imposable upon the amount  
27 of past-due child support owed on July 1, 1988 which has  
28 accrued under a support order entered by the court. The charge  
29 shall be imposed in accordance with the provisions of Section  
30 10-21 of the Illinois Public Aid Code and shall be enforced by  
31 the court upon petition.

32 (h) All orders for support, when entered or modified, shall  
33 include a provision requiring the non-custodial parent to  
34 notify the court and, in cases in which party is receiving  
35 child support enforcement services under Article X of the  
36 Illinois Public Aid Code, the Illinois Department of Public

1 Aid, within 7 days, (i) of the name and address of any new  
2 employer of the non-custodial parent, (ii) whether the  
3 non-custodial parent has access to health insurance coverage  
4 through the employer or other group coverage and, if so, the  
5 policy name and number and the names of persons covered under  
6 the policy, and (iii) of any new residential or mailing address  
7 or telephone number of the non-custodial parent. In any  
8 subsequent action to enforce a support order, upon a sufficient  
9 showing that a diligent effort has been made to ascertain the  
10 location of the non-custodial parent, service of process or  
11 provision of notice necessary in the case may be made at the  
12 last known address of the non-custodial parent in any manner  
13 expressly provided by the Code of Civil Procedure or this Act,  
14 which service shall be sufficient for purposes of due process.

15 (i) An order for support shall include a date on which the  
16 current support obligation terminates. The termination date  
17 shall be no earlier than the date on which the child covered by  
18 the order will attain the age of 18. However, if the child will  
19 not graduate from high school until after attaining the age of  
20 18, then the termination date shall be no earlier than the  
21 earlier of the date on which the child's high school graduation  
22 will occur or the date on which the child will attain the age  
23 of 19. The order for support shall state that the termination  
24 date does not apply to any arrearage that may remain unpaid on  
25 that date. Nothing in this subsection shall be construed to  
26 prevent the court from modifying the order or terminating the  
27 order in the event the child is otherwise emancipated.

28 (i-5) If there is an unpaid arrearage or delinquency (as  
29 those terms are defined in the Income Withholding for Support  
30 Act) equal to at least one month's support obligation on the  
31 termination date stated in the order for support or, if there  
32 is no termination date stated in the order, on the date the  
33 child attains the age of majority or is otherwise emancipated,  
34 the periodic amount required to be paid for current support of  
35 that child immediately prior to that date shall automatically  
36 continue to be an obligation, not as current support but as

1 periodic payment toward satisfaction of the unpaid arrearage or  
2 delinquency. That periodic payment shall be in addition to any  
3 periodic payment previously required for satisfaction of the  
4 arrearage or delinquency. The total periodic amount to be paid  
5 toward satisfaction of the arrearage or delinquency may be  
6 enforced and collected by any method provided by law for  
7 enforcement and collection of child support, including but not  
8 limited to income withholding under the Income Withholding for  
9 Support Act. Each order for support entered or modified on or  
10 after the effective date of this amendatory Act of the 93rd  
11 General Assembly must contain a statement notifying the parties  
12 of the requirements of this subsection. Failure to include the  
13 statement in the order for support does not affect the validity  
14 of the order or the operation of the provisions of this  
15 subsection with regard to the order. This subsection shall not  
16 be construed to prevent or affect the establishment or  
17 modification of an order for support of a minor child or the  
18 establishment or modification of an order for support of a  
19 non-minor child or educational expenses under Section 513 of  
20 the Illinois Marriage and Dissolution of Marriage Act.

21 (j) An order entered under this Section shall include a  
22 provision requiring the obligor to report to the obligee and to  
23 the clerk of court within 10 days each time the obligor obtains  
24 new employment, and each time the obligor's employment is  
25 terminated for any reason. The report shall be in writing and  
26 shall, in the case of new employment, include the name and  
27 address of the new employer. Failure to report new employment  
28 or the termination of current employment, if coupled with  
29 nonpayment of support for a period in excess of 60 days, is  
30 indirect criminal contempt. For any obligor arrested for  
31 failure to report new employment bond shall be set in the  
32 amount of the child support that should have been paid during  
33 the period of unreported employment. An order entered under  
34 this Section shall also include a provision requiring the  
35 obligor and obligee parents to advise each other of a change in  
36 residence within 5 days of the change except when the court

1 finds that the physical, mental, or emotional health of a party  
2 or that of a minor child, or both, would be seriously  
3 endangered by disclosure of the party's address.

4 (Source: P.A. 92-590, eff. 7-1-02; 92-876, eff. 6-1-03; 93-139,  
5 eff. 7-10-03; revised 9-15-03.)

6 Section 99. Effective date. This Act takes effect on July  
7 1, 2004.